

## DELIBERATIVE AND EXEMPT

### DRAFT TRIBAL CALL DISCUSSION POINTS

Doug, here are the 8 tribes that we recommend that you contact first. The information below is a quick list of issues by Tribe and overall tribe specific messages you may want to bring up on the call. We are also recommending a second and third round of contacts and will supply tribal call discussion points for those calls. This paper should be used in conjunction with the tribal profiles for each tribe that are already provided and any SharePoint Hot Issues - prepared by various Regional Offices. (E.g., Uintah & Ouray Reservation Ozone prepared by OPRA/Air and Dewey Burdock UIC project from the Water office).

**NOTICE:** *Please be aware that we cannot predict the nature or tone of the call, and there may be some tribal leaders who will take this opportunity to voice an issue or priority that we have not identified here. In that case, we recommend a high level response acknowledging their interest/concern, and indicating that you will certainly bring the matter back to the staff.*

Generally, a prevalent issue in Indian country is compliance with drinking water standards at tribal drinking water facilities. We work predominantly with the tribal utilities and tribal leaders, *not* the tribal environmental programs, and other federal agencies (BIA, IHS, etc.) to get these facilities back into compliance. These are often an on-again/off-again type of an issue with some tribes and their utilities, in Region 8.

We also recommend an additional resource for you that may be helpful before making calls to the Tribes.

- As part of EPA's mandatory training for all employees, EPA has a 30-minute training on working with Tribal Governments, and this year, the theme includes some background on EPA jurisdiction in Indian country. You can find this training in Skillport, or from the OneEPA Workplace homepage, you can click on eLearning under Quick Links. [ HYPERLINK "<http://workplace.epa.gov/elearning.html>" ]

### General Comments

Greeting: "Good afternoon (President, Chairman, etc.)."

- Calling to introduce myself – I'm the new Regional Administrator for US EPA Region 8 (brief introduction & background).
- I'm becoming familiar with EPA's specific work in Indian country, and I'm reviewing our long-standing policies on tribal consultation, treaty rights, and communicating on a government to government basis. [See, [ HYPERLINK "<http://8net.epa.gov/pages/tribal-partners>" ]]
- As you may have seen, our Administrator recently reaffirmed EPA's 1984 Indian Policy which emphasizes how important EPA's relationship is with tribal governments. [See, *October 11, 2017 Reaffirmation Memo*]
- Like the Administrator, I look forward to advancing our partnership with the [insert Tribe].

## **DELIBERATIVE AND EXEMPT**

### **DRAFT TRIBAL CALL DISCUSSION POINTS**

**Blackfeet Tribe** – Chairman Harry Barnes  
*Blackfeet Reservation, Montana*

#### **Current Issues:**

1. There are currently no significant environmental issues at Blackfeet.
2. In the past there have been significant wastewater lagoon operational issues and associated questions related to the responsible operators but those issues have receded recently. There have also been on and off-again concerns with the Tribe's drinking water system (called Two Medicine), but for now, this doesn't appear to be a significant issue.
3. Gerald Wagner, the Tribe's Environmental Director, plays a significant role nationally. Gerald is the Secretary of the National Tribal Caucus NTC).
  - a. The NTC is a national body of high-level tribal advisors to the EPA. Members are selected on a regional basis by each Regional Tribal Operations Committee or its equivalent and represent all tribes within their regions. The focus of the Caucus is to identify to the Agency, tribal issues that are national in scope, cross-agency or cross-media in nature, or that may be emerging or urgent.
  - b. Gerald primarily represents the issues and concerns of the Montana tribes to the Caucus and Agency. He was present at the 10/11/17 NTC meeting where the Administrator reaffirmed the 1984 Indian Policy.
  - c. Gerald is the Regional Tribal representative to the Agency's E-Enterprise Leadership Council.  
Gerald also regularly attends Environmental Council of States (ECOS) meetings and represents Tribal perspectives to that Group.

Possible Message: I want to acknowledge the leadership of Gerald Wagner both within the regional and national tribal communities. Gerald has a significant amount of knowledge to bring to the table and we are very appreciative of having Gerald's perspective and advocacy for Tribes to assist the Agency in understanding the needs of Tribes and in helping us craft better programs to assist tribes and conduct work on reservations in line with our trust responsibilities.

**Ute Mountain Ute Tribe** – Chairman Harold Cuthair  
*Ute Mountain Ute Reservation, Colorado & New Mexico*

#### **Current issues:**

1. White Mesa Mill (fyi, the Tribe has at least a decade-long history & continuing concern re: this uranium milling facility).  
(See attached, September 17, 2017 Letter to Chairman Cuthair re: scheduling consultation for the pending renewal of the NRC's radioactive materials license, the renewal of the State of Utah's groundwater discharge permit issued to the facility, as well as the CERCLA Off-Site Rule acceptability concerns.)
2. Legacy and new oil and gas related spill/produced water concerns: A team of regional staff along with a representative of BLM will be meeting with the Tribe's environmental staff later

## DELIBERATIVE AND EXEMPT

### DRAFT TRIBAL CALL DISCUSSION POINTS

this fall to discuss concerns of the tribe related to environmental impacts from old and current oil/gas production.

- a. Scott Clow, the Tribe's Environmental Director, play a significant role nationally. Scott is a Region 8 representative to the NTC, a national body of high-level tribal advisors to the EPA. Members are selected on a regional basis by each Regional Tribal Operations Committee or its equivalent and represent all tribes within their regions. The focus of the Caucus is to identify to the Agency, tribal issues that are national in scope, cross-agency or cross-media in nature, or that may be emerging or urgent. Scott primarily represents the issues and concerns of the Colorado and Utah tribes to the Caucus and Agency. Scott was present at the 10/11/17 NTC meeting where the Administrator reaffirmed the 1984 Indian Policy.

#### Possible Messages:

1. I understand that there is a long history of the Tribe's concerns related to the White Mesa Mill. I will be getting up to speed on that issue in the near future. I also, understand that the Region sent you a letter indicating in September inviting you to consult with us further on the matter. I look forward to hearing from you related to White Mesa if you so choose to consult.
2. I want to acknowledge the leadership of Scott Clow both within the regional and national tribal communities. Scott has a significant amount of knowledge to bring to the table and we are very appreciative of having Scott's perspective and advocacy to assist the Agency in understanding the needs of Tribes and in helping us craft better programs to assist tribes and conduct work on reservations in line with our trust responsibilities.

**Flandreau Santee Sioux Tribe** – President Anthony Reider  
*Flandreau Santee Sioux Reservation, South Dakota*

#### Current Issues:

1. No significant issues that we are working on at this point.
2. Mark Allen, is the Tribe's General Assistance Program Coordinator and the defacto Environmental Director. Mark is a Region 8 representative to the NTC, a national body of high-level tribal advisors to the EPA. Members are selected on a regional basis by each Regional Tribal Operations Committee or its equivalent and represent all tribes within their regions. The focus of the Caucus is to identify to the Agency, tribal issues that are national in scope, cross-agency or cross-media in nature, or that may be emerging or urgent.
  - a. Mark primarily represents the issues and concerns of the North and South Dakota tribes to the Caucus and Agency. He was present at the 10/11/17 NTC meeting where the Administrator reaffirmed the 1984 Indian Policy.

Possible Message: I want to acknowledge the leadership of Mark Allen both within the regional and national tribal operations committees. Mark has a significant amount of knowledge to bring to the table and we are very appreciative of having his perspective and advocacy to assist the Agency in

## **DELIBERATIVE AND EXEMPT**

### **DRAFT TRIBAL CALL DISCUSSION POINTS**

understanding the needs of Tribes and in helping us craft better programs to assist tribes and conduct work on reservations in line with our trust responsibilities.

#### **Three Affiliated Tribes – Chairman Mark Fox**

(aka MHA Nation – Mandan, Hidatsa & Arikara Nation – while the Federal Register listing federally recognized tribes uses “Three Affiliated Tribes”, when communicating with the Tribe directly (via phone or in person), we use “MHA Nation” because that is how the Tribes refer to themselves.)

*Fort Berthold Reservation, North Dakota*

#### **Current Issues:**

1. Recently EPA issued a synthetic minor air permit for two storage tanks and a loading rack associated with oil collection/processing facility
2. Discussions between the Region and Tribe related to future NPDES permitting if the tribe constructs a Refinery/Trans Loading facility
3. Impacts of produced water and spills on the reservation
4. UIC permit applications for non-Indian operators within the Reservation (on fee land) (very sensitive)
5. Tribe is considering taking a larger role in developing tribal water quality standards
6. State/Tribal jurisdiction concerns

Possible Message: I understand that there are a great many issues that the Region 8 staff has been working with you and your staff on especially related to oil and gas activities on Fort Berthold. I look forward to getting up to speed to better understand our work with you to ensure that your needs are met to continue oil and gas related activities while ensuring protection of the health of your citizens and the environment.

#### **Ute Indian Tribe – Chairman Luke Duncan**

*Uintah & Ouray Reservation, Utah*

#### **Current Issues:**

1. Various oil and gas related concerns across multiple EPA programs
  - a. Ozone standard violations
  - b. Potential U&O air quality federal implementation plan to assist in reducing oil and gas related emissions on the reservation. (See, DRAFT Letters to July 18<sup>th</sup> Governor Herbert and the August 15<sup>th</sup> Chairman Duncan letters regarding the national Indian country FIP and streamlined permitting for the Uinta Basin; see, Hot Issue Paper prepared by OPRA/Air)
  - c. Oil shale/tar sands pilot projects that may have RCRA implications
  - d. Underground Injection Permitting
  - e. NEPA and relationship with Federal Land Managers
  - f. Oil and gas research projects in the Basin

## **DELIBERATIVE AND EXEMPT**

### **DRAFT TRIBAL CALL DISCUSSION POINTS**

2. On-going jurisdictional issues and strained Tribe-Utah relationships, including an ongoing court challenge regarding diminishment issues (County challengers, long legal history)

#### **Possible Messages:**

1. I understand that there are a great many issues that the Region 8 has been working with you and your staff on especially related to oil and gas activities on the Uintah and Ouray Reservation. I look forward to getting up to speed to better understand our work with you to ensure that your needs are met for oil and gas related activities to continue while ensuring protection of the health of your citizens and the environment.
2. I understand that we have a lot of work still to do related specifically to air quality in the Uinta Basin. I have a great deal of experience in nonattainment related issues and want to work with you and where appropriate the State to solve those problems in the best way possible.

#### **Standing Rock Sioux – Chairman Mike Faith**

*Standing Rock Reservation, North Dakota & South Dakota*

#### **Current Issues:**

1. In late September the Standing Rock Sioux Tribe elected a new Chairman – Mike Faith
2. Continued concern with Dakota Access Pipeline (DAPL) – currently in litigation.
3. Powertech - Dewey Burdock UIC Uranium Project located in the South Dakota Black Hills & related off-reservation treaty rights (Lake Oahe) (this is an off-reservation treaty-rights issue, National Historic Preservation Act (NHPA) and technical environmental issue) (See, Hot Issues Paper prepared by OW)

#### **Possible Messages:**

1. Congratulations on your recent election as tribal chairman. I look forward to working with you in the future.
2. I am coming up to speed on a range of topics which Region 8 has worked with the tribe in the recent past. I understand that, regardless of the court proceedings related to DAPL, the tribe remains concerned about pipelines in general and that our work to permit the Dewey Burdock insitu uranium facility has great interest by your tribe.

#### **Cheyenne River Sioux – Chairman Harold Frazier**

*Cheyenne River Reservation, South Dakota*

#### **Current Issues:**

1. The Region recently reduced the Tribe's water quality grant substantially due to performance issues. It is unclear if the leadership is aware of this reduction or if the tribe's environmental director chose not to update them about this issue.

## DELIBERATIVE AND EXEMPT

### DRAFT TRIBAL CALL DISCUSSION POINTS

2. The Region is working with the Tribe, and the Office of Water to coordinate a Headquarters led consultation on the Waters of the US rule. On the EPA-side, we've looked at the end of November/early December – this will still need to be scheduled with the Tribe at a mutually convenient time.
3. The Chairman and Tribe were intimately involved in the Dakota Access Pipeline protests and legal proceedings due to concerns of potential water impacts at the pipeline crossing of Missouri River waters, and off-reservation treaty rights
4. Powertech – Dewey Burdock UIC Uranium Project in the South Dakota Black Hills (This is an off-reservation treaty-rights issue, National Historic Preservation Act (NHPA) and technical environmental issue) (See, Hot Issues Paper prepared by OW)

#### Possible Messages:

1. I understand that you have requested that the Agency consult with you on issues related to Waters of the US. I look forward to understanding your perspectives on this important matter and we are working to schedule this consultation.
2. I am coming up to speed on a range of topics which Region 8 has worked with the tribe in the recent past. I understand that, regardless of the court proceedings related to DAPL, the tribe remains concerned about pipelines in general and that our work to permit the Dewey Burdock UIC Project has great interest by your tribe.

**Oglala Sioux** – President Troy “Scott” Weston  
*Pine Ridge Reservation, South Dakota*

#### Current Issues

1. Historic landfill fires at the Redshirt Landfill
2. Powertech - Dewey Burdock UIC Uranium Project in the South Dakota Black Hills – *biggest & most-sensitive issue*. (This is an off-reservation treaty-rights issue, National Historic Preservation Act (NHPA) and technical environmental issue. There are multiple federal agencies and the State involved, and there is an administrative appeal issue in the NRC, and depending on its resolution, potential federal litigation.) (See, Hot Issues Paper prepared by OW)
3. Enforcement action recently issued: Notice of Violation issued (Oct. 17) for Wolf Creek Water System – Failure to Complete Corrective Actions. This stems from a sanitary survey conducted in July 2016, where corrective action would be required either within 6 months from receipt of the survey (Dec. 30, 2016) or according to a completion schedule that was due to EPA by Jan. 30, 2017.
4. Susie Mesteth the Tribe's Environmental Program Manager currently serves as the Vice-Chair of the Regional Tribal Operations Committee (RTOC). That body is made up of the Environmental Directors from the Region 8 tribes and serves to help inform the Region on issues important to Indian Country.

## DELIBERATIVE AND EXEMPT

### DRAFT TRIBAL CALL DISCUSSION POINTS

#### Possible Messages:

1. I understand that the Region has worked with the tribe on several landfill fires in the past and that as a result of the tribe's hiring of Leslie Mesteth as the Solid Waste Coordinator those problems have been eliminated and the operations at the landfill are to be commended.
2. I am hoping to come up to speed soon on our Dewey Burdock UIC permitting related work and understand that your tribe has particular interest in our actions.
3. I am also aware of an enforcement action (Notice of Violation) that we just issued for Wolf Creek Water System, due to outstanding corrective actions. I know both I and our staff here are eager to help get this back on track.

2 <sup>nd</sup> Round		3 <sup>rd</sup> Round	
Confederated Tribes of the Salish & Kootenai (CSKT)	Assiniboine & Sioux (Ft. Peck)	Crow Creek	Rosebud
Southern Ute	Gros Ventre & Assiniboine Sioux (Ft. Belknap)	Turtle Mountain	Lower Brule
Eastern Shoshone (WRIR)	Chippewa-Cree (Rocky Boys)	NW Band of Shoshone	Skull Valley Band of Goshute Indiana
Northern Arapaho (WRIR)	Crow	Spirit Lake	Paiute Indian Tribe
Sisseton-Wahpeton Oyate	N. Cheyenne	Yankton	